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LAW OF THE SEA

Letter dated 9 January 1996 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to submit the text of a document related to the issue of navigation in the Black Sea Straits (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly under the agenda item entitled "Law of the sea".

(Signed) S. LAVROV

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ANNEX

The Russian side has drawn attention to the appearance of General Assembly document A/50/809 of 8 December 1995, which explains the position of the Turkish Government regarding navigation in the Black Sea Straits and the action taken in that respect by the Turkish authorities. In this connection, the Russian side confirms that its views on this issue, as set forth in document A/50/754 of 14 November 1995, remain unchanged. Accordingly, the detailed arguments adduced in that document need not be repeated, and the response can at this stage be confined to the following points.

Document A/50/809 sets out in great detail considerations relating to the need to ensure safety of navigation in the Black Sea Straits. The Russian side also proceeds on the assumption that such safety of navigation must be ensured. This is indeed an important problem, and precisely for this reason it is being dealt with in detail by the International Maritime Organization (IMO) (in particular the IMO Maritime Safety Committee), which exercises the relevant competence with regard to ensuring the safety of navigation. Thus, on 23 November 1995, at its nineteenth session, the IMO Assembly adopted without a vote a resolution on the question of navigation in the Black Sea Straits. The resolution inter alia confirms the Rules and Recommendations on Navigation through the Straits drawn up by IMO and previously adopted by it. At the same time, it emphasizes that national regulations for navigation in Straits should be in total conformity with the IMO rules and recommendations.

The essence of the issue raised in the Russian document of 14 November 1995 (A/50/754) is something different. The document emphasizes that a State must discharge its obligations under international treaties and abide by the universally recognized principles and norms of international law, which are embodied in particular in the 1982 United Nations Convention on the Law of the Sea.

The Turkish document, A/50/809, is apparently designed to dispel all the existing doubts in this respect. It indicates in paragraph 18 that "the Turkish Regulations [which have been enacted in the form of a law] are fully in line with applicable international law and freedom of navigation. The Regulations uphold the 1936 Montreux Convention and in no way infringe upon its provisions. They are not aimed at restricting or impairing the right of navigation."

However, this statement does not reflect the true state of affairs. Article 2 of the Montreux Convention provides that "... merchant vessels shall enjoy complete freedom of transit and navigation in the Straits, by day and by night, under any flag and with any kind of cargo". The Regulations adopted by Turkey, however, provide for what are in essence procedures for regulating passage through the Straits by certain categories of merchant vessels. Furthermore, under the terms of the Turkish Regulations, the Straits may be completely closed to navigation for an unspecified period on various grounds which are for the most part artificial and unjustified in nature.

The Russian side wishes to emphasize once again that, in drawing the attention of the United Nations to this issue, it is guided solely by the desire

to prevent a situation arising which could lead to tension in the region. We have no doubt that Turkey, like the Russian Federation and the other countries of the region, endeavours to build its relations on a basis of good-neighbourliness and cooperation. However, the difficulties that have arisen can be overcome not by unilateral action, but through constructive dialogue, for which the Russian side is always ready.

The Russian side notes Turkey's reluctance to acknowledge the fact that the problem which has arisen in connection with the regime for navigation through the Black Sea Straits has its origin not in a "purely technical issue", as is stated in paragraph 39 of document A/50/809, but in a point of principle relating to the discharge by a State of its obligations under international treaties. In this context, the Russian Federation considers that the General Assembly is an entirely appropriate forum for dealing with this issue.